

104TH CONGRESS  
2D SESSION

# H. R. 3737

To amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1996

Mr. BRYANT of Tennessee (for himself and Mr. CLEMENT) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to clarify the treatment of educational grants by private foundations, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. TAXABLE EXPENDITURES OF PRIVATE FOUN-**  
4                       **DATIONS NOT TO INCLUDE CERTAIN EDU-**  
5                       **CATION GRANTS AND LOANS.**

6       (a) IN GENERAL.—Section 4945 of the Internal Rev-  
7       enue Code of 1986 is amended by redesignating subsection  
8       (i) as subsection (j) and by adding after subsection (h)  
9       the following new subsection:

1       “(i) QUALIFIED EMPLOYER-RELATED GRANT PRO-  
2 GRAMS.—

3               “(1) IN GENERAL.—An individual grant shall  
4 be treated as made on an objective and nondiscrim-  
5 inatory basis for purposes of subsection (g) if it is  
6 demonstrated to the satisfaction of the Secretary  
7 that it was made pursuant to a qualified employer-  
8 related grant program.

9               “(2) QUALIFIED EMPLOYER-RELATED GRANT  
10 PROGRAM.—For purposes of this subsection, the  
11 term ‘qualified employer-related grant program’  
12 means any employer-related grant program which—

13               “(A) is not used to recruit employees of  
14 the employer, or to induce employees to con-  
15 tinue their employment with the employer or  
16 otherwise follow a course of action sought by  
17 the employer,

18               “(B) selects grantees by a committee con-  
19 sisting entirely of individuals who are not—

20               “(i) in a position to directly or indi-  
21 rectly derive a private benefit if certain ap-  
22 plicants are selected, or

23               “(ii) current or former directors, offi-  
24 cers, or employees of the employer or dis-

1 qualified persons with respect to the pri-  
2 vate foundation,

3 “(C) limits potential grantees to those who  
4 meet the minimum standards for admission to  
5 an educational institution (within the meaning  
6 of section 170(b)(1)(A)(ii)),

7 “(D) selects grantees based upon objective  
8 criteria which are—

9 “(i) related to enabling grantees to  
10 obtain an education solely for their per-  
11 sonal benefit, and

12 “(ii) not related (aside from the initial  
13 qualification of the group of potential  
14 grantees) to the employment of the grant-  
15 ees or employees whose spouses or children  
16 are grantees or to the employer’s line of  
17 business,

18 “(E) does not fail to make grants, or does  
19 not terminate or decline to renew grants pre-  
20 viously made, solely because of the failure of—

21 “(i) employees who are grantees, or  
22 employees whose spouses or children are  
23 grantees, to remain employed by the em-  
24 ployer for any length of time, or

1                   “(ii) grantees to agree to become em-  
2                   ployed by the employer at any time,

3                   “(F) does not limit the courses of study  
4                   for which the grants are available,

5                   “(G) is not established pursuant to an  
6                   agreement which the Secretary of Labor finds  
7                   to be a collective bargaining agreement between  
8                   employee representatives and the employer, if  
9                   there is evidence that the program was the sub-  
10                  ject of good faith bargaining between such em-  
11                  ployee representatives and such employer, and

12                  “(H) excludes from among the potential  
13                  grantees—

14                  “(i) disqualified persons with respect  
15                  to the private foundation, and

16                  “(ii) highly compensated employees or  
17                  spouses or children of highly compensated  
18                  employees.

19                  “(3) DEFINITIONS.—For purposes of this sub-  
20                  section—

21                  “(A) EMPLOYER-RELATED GRANT PRO-  
22                  GRAM.—The term ‘employer-related grant pro-  
23                  gram’ means any program of making grants  
24                  conducted by a private foundation that—

1 “(i) treats employees (or spouses or  
2 children of employees) of an employer as a  
3 group from which grantees of all or a por-  
4 tion of the grants will be selected,

5 “(ii) limits the potential grantees of  
6 all or a portion of the grants to employees  
7 (or spouses or children of employees) of an  
8 employer, or

9 “(iii) otherwise gives employees (or  
10 spouses or children of employees) of an  
11 employer a preference or priority over  
12 other individuals in being selected as  
13 grantees of such grants.

14 “(B) HIGHLY COMPENSATED EM-  
15 PLOYEE.—The term ‘highly compensated em-  
16 ployee’ means a highly compensated employee  
17 under subparagraph (A) or (B) of section  
18 414(q)(1), except that the \$75,000 amount  
19 under subparagraph (B) shall be adjusted at  
20 the same time and in the same manner as  
21 under section 415(d).”

22 (b) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to grants or loans made after the  
24 date of enactment of this Act.

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